



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/813,446 | 03/20/2001 | Olav Solgaard | UC97-156-7 | 3284 |

7590 07/11/2003
John P. O'Banion
O'BANION & RITCHEY LLP
Suite 1550
400 Capitol Mall
Sacramento, CA 95814

EXAMINER

LEE, JOHN D

ART UNIT PAPER NUMBER

2874

DATE MAILED: 07/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

See

09/849, 156

(10/11/2003)

Office Action Summary

Application No.

09/813,446

Applicant(s)

SOLGAARD ET AL.

Examiner

John D. Lee

Art Unit

2874

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 May 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 59-144 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 95-144 is/are allowed.
- 6) ☒ Claim(s) 59-94 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Art Unit: 2874

Applicant's communication after final rejection, filed on May 27, 2003, has been carefully studied by the Examiner. The previously applied 35 U.S.C. § 102(b) and 103(a) rejections of claims 95-144 have been obviated by the claim amendments, and those rejections are withdrawn. Claims 95-144 now stand allowed. In reviewing *all* of the claims of this application, however, the Examiner notes that claims 59-94 (indicated as allowable in the previous Office action) should have been included in the rejection based upon the Kunio et al reference. This oversight is deeply regretted. Accordingly, a new rejection of claims 59-94 is set forth below and **THE FINALITY OF THE PREVIOUS OFFICE ACTION IS HEREBY WITHDRAWN**. The present action is **not** made final.

Claims are objected to because of the following minor informalities: In line 4 of each of claims 78 and 79, "a least one" should be "at least one". The term "switch configured" should be changed to "switch is configured" in the following instances: claim 106, lines 7 and 10; claim 108, lines 7 and 10; claim 115, line 13; claim 128, line 12; claim 132, line 12; claim 135, line 12; claim 136, lines 9 and 12; claim 139, line 12; claim 140, line 12; and claim 143, line 12. In claims 129, 133, and 138, the parenthetical notation "**(f)**" is missing and should be supplied. Appropriate correction is required.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

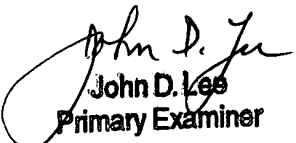
Claims 59-94 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Japanese Published Patent Disclosure No. 5-107485 to Kunio et al. Note that the publication date of this Disclosure is April 30, 1993. Kunio et al discloses an optical

switch comprising a pair of facing two-dimensional arrays of actuated mirrors which can be configured for switching an optical beam from any input port on either array to any output port on either array. Since each mirror in the Kunio et al arrays is individually addressable, the switch can be configured to have a specific mirror to receive an optical beam from a corresponding one specific input port, or to have a specific output port receive an optical beam from a corresponding one specific mirror in the array. Similarly, each mirror in each mirror array in Kunio et al can be configured to steer an optical beam to any, but not more than one for a given setting, other mirror. Kunio et al further discloses lenses for positioning optical beams onto the arrays of actuated mirrors.

Claims 95-144 are allowed. The reasons for allowability have been developed previously during the prosecution of this application.

Applicant's arguments with respect to the claims in this application have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning the merits of this communication should be directed to Examiner John D. Lee at telephone number (703) 308-4886. The Examiner's normal work schedule is Tuesday through Friday, 6:30 AM to 5:00 PM. Any inquiry of a general or clerical nature (i.e. a request for a missing form or paper, etc.) should be directed to the Technology Center 2800 receptionist at telephone number (703) 308-0956, to the technical support staff supervisor (Team 2) at telephone number (703) 308-3072, or to the Technology Center 2800 Customer Service Office at telephone number (703) 306-3329.


John D. Lee
Primary Examiner